

## REMARKS

### Objection to the Specification

The Examiner objected to the manner of use of trademarks in the Specification, the appearance of two periods at the end of line 12 on page 6 and to missing information at page 21. Applicant acknowledges the Examiner's objection and will submit appropriate corrections upon receiving and indication of the allowability of the pending claims.

### Rejection under 35 USC 112, first paragraph

Claim 2 was rejected as containing subject matter which was not described in the specification – a written description rejection.

Claim 2 has been cancelled. Applicant see the rejection under 35 USC 112, paragraph 1, as moot.

### Rejection under 35 USC 112, second paragraph

Claims 1-6 were rejected for indefiniteness. Applicant will address each rejection in turn.

Claim 5, rejected over the recitation of “a polynucleotide” has been amended to recite “the polynucleotide”.

Claim 1, at paragraph (b), rejected as vague has been amended to recite “fully complementary”.

Claim 2 is cancelled making it's rejection moot.

The preamble of Claim 1, rejected over the recitation of “purified and isolated” has been amended to recite “isolated and purified”.

Claim 1, at paragraph (a), rejected over the recitation of “an amino”, has been amended to recite “the amino”.

Claims 2-6 were rejected as depending from rejected claims.

In view of Applicants amendments to Claim 1 and 5 and the cancellation of Claim 2, Applicant requests withdrawal of the stated rejections under 35 USC 112, paragraph 2.

Rejection under 35 USC 102(e)

Claims 1-3, 5 and 6 were rejected under 35 USC 102(e) in view of Rubenfield *et al.*, US 6,551,795. The Examiner stated that "Rubenfield's nucleic acid sequence has more than 97% sequence identity with the instantly claimed nucleotide sequence of SEQ ID NO: 1." The Examiner stated that Rubenfield's polynucleotide is "complementary" to the instantly claimed polynucleotide of SEQ ID NO: 1 (Action at paragraph 11)

Applicant has amended Claim 1 at (b) to recite the limitation that only polynucleotides having a sequence "fully complementary" to a polynucleotide encoding a polypeptide having the amino acid sequence of SEQ ID NO: 2 are within the claim. The Examiner has made no comparison between the polypeptide encoded by the polynucleotide of US 6,551,795 and Applicant's SEQ ID NO: 2.

In view of Applicant's amendment to Claim 1 and the remarks above, Applicant requests the withdrawal of the stated rejection under 35 USC 102(e).

**CONDITIONAL PETITION**

Applicant hereby makes a Conditional Petition for any relief available to correct any defect in connection with this filing, or any defect remaining in this application after this filing. The Commissioner is authorized to charge deposit account 13-2755 for the petition fee and any other fee(s) required to effect this Conditional Petition.

Respectfully submitted,

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